

January 8, 1999

Ms. Christine P. Lanners
Assistant City Attorney
Office of the City Attorney
Municipal Building
Dallas, Texas 75201



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

OR99-0038

Dear Ms. Lanners:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120979.

The City of Dallas received a request for the social security number and the date of birth of Officer Leon C. Brannon. You claim that the requested information is excepted from required public disclosure by section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

We first point out that section 552.117 of the Government Code provides that information may be withheld if it is:

information that relates to the home address, home telephone number, social security number, or that reveals whether the following person has family members:

* * * *

(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code.

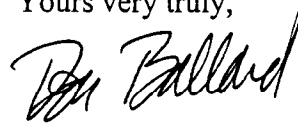
It appears that the subject of this request is a peace officer. You must withhold the officer's social security number under section 552.117. Code Crim. Proc. art. 2.12; Open Records Decision Nos. 532 (1989), 530 (1989).

You argue that the officer's date of birth must be withheld under section 552.101. Section 552.101 excepts from disclosure "information considered

to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.101 encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. We do not believe that the officer’s date of birth may be withheld based on a right of privacy. *Cf. Calvert v. Employees Retirement Sys.*, 648 S.W.2d 418. 420-21 (Tex. App.—Austin 1983, writ *ref’d n.r.e.*) (judicial retirees’ names and addresses not protected by right of privacy); Open Records Decision Nos. 169 (1977), 123 (1976). The officer’s date of birth may not be withheld.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 120979

Enclosures: Submitted documents

cc: Ms. Veronica Jackson
123-1 Winding Way
Milnot, North Dakota 58704
(w/o enclosures)